



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Nonconforming Regulation Recommendations & Options

For March 24-25 Advisory Committee Meeting

1. Modifications to Nonconforming Structures Located in the Primary Buffer
2. Modifications to Nonconforming Structures Located in the Secondary Buffer
3. Modifications to Nonconforming Structures Located in the Floodway
4. Modifications to Nonconforming Structures Located in the Floodfringe
5. Nonconforming Lot Provisions
6. Reduced Setback Options

1. MODIFICATIONS TO NONCONFORMING STRUCTURES LOCATED IN THE PRIMARY BUFFER (THAT AREA WHICH LIES BETWEEN THE ORDINARY HIGH WATER MARK AND THE SECONDARY BUFFER)

For principal and accessory structures located in the primary buffer, the Department recommends that the following provisions apply:

- Unlimited maintenance and repairs are allowed, including the repair or replacement of existing structural components; this does not include complete replacement of a structure
- Replacement structures must be built in a compliant location
- Structures may not be expanded
- The primary buffer must be preserved or restored
- An envelope 15-feet wide around the structure may be maintained in lawn

Mitigation

The property owner must also select two of the following practices to implement:

- Restore a 15-foot wide buffer on both side lot lines
- Install infiltration practices - such as rain gardens - to address stormwater runoff
- Remove accessory structures in the primary buffer and agree to no new accessory structures
- Remove accessory structures in the secondary buffer and agree to no new accessory structures
- Use visually inconspicuous building materials, such as earth-toned materials
- Remove riprap, concrete seawalls, or artificial sand beaches
- Implement other practices as agreed to by the zoning office

2. MODIFICATIONS TO NONCONFORMING STRUCTURES LOCATED IN THE SECONDARY BUFFER (THAT AREA WHICH EXTENDS FROM THE PRIMARY BUFFER TO THE MINIMUM SETBACK LINE)

For principal and accessory structures located in the secondary buffer, the Department recommends that the following provisions apply:

- Unlimited maintenance and repairs are allowed, including the repair or replacement of existing structural components; this does not include complete replacement of a structure
- Replacement structures must be built in a compliant location
- The primary buffer must be preserved or restored

- A one-time limited expansion for principal structures would be allowed based on the options listed below
- Accessory structures may not be expanded

Mitigation

The property owner must also select two of the following practices to implement:

- Restore a 15-foot wide buffer on both side lot lines
- Install infiltration practices - such as rain gardens - to address stormwater runoff
- Remove accessory structures in the primary buffer and agree to no new accessory structures
- Remove accessory structures in the secondary buffer and agree to no new accessory structures
- Use visually inconspicuous building materials, such as earth-toned materials
- Remove riprap, concrete seawalls, or artificial sand beaches
- Implement other practices as agreed to by the zoning office

Limited Expansion of Principal Structures

To qualify for a one-time limited expansion, the existing principal structure must be a minimum of:

Favor	Option
Yes No	A. No minimum size requirement
Yes No	B. 500 square feet
Yes No	C. 600 square feet
Yes No	D. 750 square feet
Yes No	E. Other options as suggested by committee members

For a one-time limited expansion, the existing principal structure may not be expanded beyond:

Favor	Option
Yes No	A. No expansion allowed
Yes No	B. 25% of existing footprint, not to exceed 1,500 square feet
Yes No	C. 50% of existing footprint, not to exceed 1,500 square feet
Yes No	D. 25% of habitable living area, not to exceed 2,000 square feet
Yes No	E. 50% of habitable living area, not to exceed 2,000 square feet
Yes No	F. 50% of equalized assessed value
Yes No	G. Other options as suggested by committee members

For a one-time limited expansion, the existing principal structure may be expanded according to the following provisions:

Favor	Option
Yes No	A. Landward of the existing structure
Yes No	B. Parallel to the existing structure
Yes No	C. A second story addition to the existing structure
Yes No	D. Other options as suggested by committee members

3. MODIFICATIONS TO NONCONFORMING STRUCTURES IN THE FLOODWAY (THAT PART OF THE FLOODPLAIN ADJACENT TO THE CHANNEL WHICH HAS MOVING WATER DURING A FLOOD EVENT)

For principal and accessory structures located in the floodway, the Department recommends that the following provisions apply:

- Floodproof the structure to the flood protection elevation using engineered piers or pilings

- Limit obstructions to flow to the maximum extent possible and demonstrate that any obstructions will cause less than a one-hundreth (0.01) of a foot rise in the regional flood elevation
- The community must have adopted a comprehensive emergency action plan if there is no dryland access to the structure

In addition to the above provisions, one of the following three options would apply:

Favor		Option
Yes	No	A. Unlimited maintenance and repairs are allowed, including the repair or replacement of existing structural components; this does not include complete replacement of a structure. Replacement structures must be built in a compliant location. Structures may not be expanded. <i>(This proposal is consistent with primary buffer provisions)</i>
Yes	No	B. Structural repairs and alterations limited to 50% of current equalized assessed value; all other work, including ordinary maintenance and repairs, would not count.
Yes	No	C. Existing 50% regulations; current rule excludes specific items listed under ordinary maintenance and repairs, all other work performed counts against the 50% cumulative cap.

4. MODIFICATIONS TO NONCONFORMING STRUCTURES IN THE FLOODFRINGE (THAT PART OF THE FLOODPLAIN AREA LANDWARD OF THE FLOODWAY)

For structures located in the floodfringe, if the property owner wants to make structural repairs or alterations, the Department recommends that the following provisions apply:

- Floodproof the entire structure by either fill or other department-approved methods
- Provide dryland access, unless the community has adopted a comprehensive emergency action plan to address the lack of dryland access to the structure
- Replacement structures must meet current floodplain development standards
- If the above provisions cannot be met, a one-time limited expansion would be allowed based on the following options:

Favor		Option
Yes	No	A. No expansion allowed
Yes	No	B. 25% of existing footprint, not to exceed 1,500 square feet
Yes	No	C. 50% of existing footprint, not to exceed 1,500 square feet
Yes	No	D. 25% of habitable living area, not to exceed 2,000 square feet
Yes	No	E. 50% of habitable living area, not to exceed 2,000 square feet
Yes	No	F. 50% of equalized assessed value
Yes	No	G. Other options as suggested by committee members

5. NONCONFORMING LOTS

The Department recommends that if a lot does not provide a compliant building location, the roadway and OHWM setbacks may be reduced to provide a 30-foot deep building envelope, with the application of the following provisions:

- The road setback is first reduced by a maximum of one-half of the total setback
- If necessary, the OHWM setback may then be reduced by a maximum of one-third of the total setback.
- No accessory structures are allowed in the 30-foot deep building envelope except for attached garages
- The primary buffer must be preserved or restored

Mitigation

The property owner must also select three of the following practices to implement:

- Restore a 15-foot wide buffer on both side lot lines
- Install infiltration practices - such as rain gardens - to address stormwater runoff
- Remove accessory structures in the primary buffer and agree to no new accessory structures
- Remove accessory structures in the secondary buffer and agree to no new accessory structures
- Use visually inconspicuous building materials, such as earth-toned materials
- Remove riprap, concrete seawalls, or artificial sand beaches
- Implement other practices as agreed to by the zoning office

6. REDUCED SETBACK OPTIONS

The Department recommends that to qualify for a reduced OHWM setback, there must be principal structures within 100 feet on both sides of proposed building site that are built at less than the required setback. The reduced setback may not result in a new structure in the primary buffer and shall be:

Favor		Option
Yes	No	A. The average of the adjacent principal structures
Yes	No	B. The same setback as the farther of the two adjacent principal structures
Yes	No	C. No setback averaging allowed

- Size limits shall be consistent with the limited expansion limits for nonconforming structures
- The primary buffer must be preserved or restored

Mitigation

The property owner must also select three of the following practices to implement:

- Restore a 15-foot wide buffer on both side lot lines
- Install infiltration practices - such as rain gardens - to address stormwater runoff
- Remove accessory structures in the primary buffer and agree to no new accessory structures
- Remove accessory structures in the secondary buffer and agree to no new accessory structures
- Use visually inconspicuous building materials, such as earth-toned materials
- Remove riprap, concrete seawalls, or artificial sand beaches
- Implement other practices as agreed to by the zoning office

If you would like your comments to be part of the public record for the NR115 rule revision, please provide the following information. Please print legibly.

Date: _____

Name: _____

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Would you like to receive email updates about the NR 115 revision process?

☐ Yes

☐ No